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SIKKIM

GOVERNMENT GAZETTE

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**SIKKIM STATE HUMAN RIGHTS COMMISSION,
(PROCEDURE) REGULATIONS, 2015**

No. 1/SSHRC

Dated: 24/11/2015

NOTIFICATION

In exercise of the powers conferred by sub-section (2) of Section 10 read with Section 29 of the Protection of Human Rights Act, 1993 (Act No. 10 of 1994), the Sikkim State Human Rights Commission, hereby makes the following REGULATIONS.

1. Short title and Commencement.-

- a) These Regulations may be called the Sikkim State Human Rights Commission (Procedure) Regulations, 2014.
- b) They shall come into force with immediate effect.

CHAPTER I- PRELIMINARY

2. Definitions

1. In these regulations, unless the context otherwise requires
 - a) "Act" means the Protection of Human Rights Act, 1993, as amended from time to time.
 - b) "Code" means the Code of Civil Procedure, 1908, as amended from time to time.
 - c) "Complaint" means all petitions or communications received by the Commission from a victim or any other person on his behalf, in person or by post or telegram or fax or any other means whatsoever, alleging violation, by a public servant, of all or any of the human rights defined in Section 2 (d) read with Section 21 (5) of the Act.
 - d) "Commission" means the Sikkim State Human Rights Commission.
 - e) "Chairperson" means the Chairperson of the Commission.
 - f) "Regulation" Means the Regulations framed by the Commission.
 - g) "Secretary" means Secretary of the Commission.

2. Words and expressions not defined in these regulations but defined in the Act, shall have the same meaning as respectively assigned to them in the Act.
3. **Head quarters of the commission.**- The Head quarter of the Commission shall be, as notified by the State Government, at Gangtok.
4. **Periodicity of Sitting.**-The Commission shall normally have its regular sittings on all working days of every month, excepting Saturdays and holidays. The Chairperson may, however either suo-motu or at the request of the Secretary, may direct a special sitting to be convened to consider any matter of urgency.
5. **Secretariat Assistance.**- The Secretary shall, along with such other officers of the commission as may be directed by the Chairperson, attend meetings of the Commission.
6. **Agenda.**- The Secretary shall, in consultation with the Chairperson, prepare the agenda for each meeting of the commission and shall cause notes thereon to be prepared by the secretariat. Such notes shall, as far as possible, be self contained. Specific file covering the agenda items shall be made available to the Commission for reference. The commission may, however, take up any matter for deliberation, which is not included in the agenda of the meeting.

Chapter II-

PROCEDURE OF DEALING WITH COMPLAINTS OR SUO-MOTU ACTION

7. **General:-**
 - 1) Complaint may be made to the commission in Nepali, or in English.
 - 2) No fee shall be chargeable on complaints.
 - 3) The complaint should disclose a complete picture of the matter complained against. The Commission may, if necessary, call for further information and may direct affidavit to be filed in support of the allegation, whenever considered necessary.
8. **Complaints not ordinarily entertainable.**- The Commission may dismiss, in limini, complains of the following nature, namely:
 - 1) vague, anonymous, pseudonymous, illegible, trivial or frivolous;
 - 2) barred under Section 36 of the Act;
 - 3) allegations do not make out any specific violation of human rights;
 - 4) matter is subjudice before a court or tribunal;
 - 5) matter is outside the purview of the Commission.
9. **Processing of Complaints.**-
 - 1) Immediately on receipt of applications/ communications, the Court master in the Commission shall sort out the complaints and place them for scrutiny before the Secretary.

- 2) Complaints and other communications requiring urgent action shall be placed before the Secretary who shall arrange for urgent processing;
- 3) After completing the scrutiny by the Court Master, he shall put up a scrutiny report alongwith the complaint and documents if any before the Secretary who shall put the same before the Chairperson for further orders.
- 4) If the communication is found to be not a complaint under clause (a) of Section 12 of the Act, but relates to the other clauses of section 12, the same shall be placed before the secretary, who shall place it with a brief note before the Chairperson as early as possible.

10. Registration.-

- 1) A common register shall be maintained in the office of Secretary of the Commission with details of the parties and the matter in issue as directed by the Chairperson.
- 2) Record relating to each complaint shall be kept separately and duly indexed and in separate file covers and the same shall be sent for placing /listing before the Commission.
- 3) All complaints registered as aforesaid shall be placed before the Commission for consideration as expeditiously as possible but not later than 7 (seven) days from the date of its receipt. In case a longer time is required specific orders shall be obtained from the Chairperson.
- 4) Complaints requiring urgent consideration shall be placed before the Chairperson as far as possible within 24 hours (twenty four) of its receipt.

11. Preliminary Consideration and steps.-

- 1) If a complaint is, after consideration, dismissed in limini, for any of the reasons mentioned in regulation 8, the said order shall be communicated to the complainant immediately. The case is then treated as closed.
- 2) If the complaint is admitted or is taken cognizance suo-motu, the same shall be communicated in writing to the concerned authority enclosing a copy of the complaint. Such notice shall specify the time within which the information or the report has to be submitted.

12. Language of the Commission.-

All communication, orders, proceedings of the Commission etc. shall be in English.

13. Recording of Orders.

- 1) Orders of the Commission shall be recorded in the Order sheet. Lengthy orders shall be recorded on separate sheets and appended to the Order sheet. Court Master attached to the Chairperson shall enter the date of the Order and the number of the pages.
- 2) In cases requiring urgent action in pursuance of the order issued by the Commission, the Court Master shall send the file at once to the Secretary who shall arrange for the communication of the order either by fax or telephone or speed post or telegram and then transmit the records to the concerned section for further action.

14. Summons.

- 1) Summons in Form- A indicating the purpose of summoning such person shall be issued in the following cases:
 - I) to the complainant or any other person on his behalf to afford him a personal hearing;
 - II) to any other person who, in the opinion of the Commission; should be heard for appropriate disposal of the case,
 - III) to any person to cause production of records required by the Commission,
 - IV) to any person to be examined as witness;
 - V) to any person whose conduct is enquired into and
 - VI) to any person, whose reputation, in the opinion of the Commission, is likely to be prejudicially affected.
- 2) The case in which summons has been issued for personal appearance of a person, shall be placed before the Commission, on the date noted in the summons for such personal appearance.

15. Ordering Investigation.

- 1) Whenever the Commission orders investigation by the Police or by any other investigating agency of the State Government as provided in Section 14 of the Act, a copy of such order along with copies of the papers relevant thereto shall be furnished forthwith to such Police or Agency, with the concurrence of the State Government calling upon it to conduct the Investigation and submit its report within the time specified in the order.
- 2) If report is not received within the specified time, the matter shall be placed before the Commission forthwith for further directions.

16. Communication of Recommendations.- Whenever the Commission makes any recommendation after considering the inquiry report, a copy of the inquiry report along with its recommendation shall be sent within 7(seven) days from the date of such recommendation to the concerned government or authority calling upon it to furnish its comments on the report including the action taken or proposed to be taken within 1(one) month or such further time as the Commission may allow.

17. Follow up action.-

- 1) If no comments are received within the specified time, the case shall be placed before the Commission forthwith for further direction.
- 2) If comments are received, the case shall be placed before the Commission with a brief note indicating whether the recommendation of the Commission has been accepted in full or part or not accepted at all, the reasons for such non acceptance or part acceptance and the action that may be taken or proposed to be taken.
- 3) After considering the comments and the brief note on it, the Commission shall pass such order as it deems fit.

- 18. Procedure regarding Suo-Motu action.-** The procedure contained in this Chapter shall mutatis mutandis apply to suo-motu action taken by the Commission.
- 19. Opportunity to person before the Commission.-** The commission may, in its discretion, afford a personal hearing to the petitioner or any other person on his behalf and such other person or persons as in the opinion of the Commission should be heard for the proper disposal of the matter before it and, where necessary, call for records and examine witnesses in connection with it. The Commission shall afford a reasonable hearing including opportunity of cross examining witnesses, if any, in support of his stand to a person, whose conduct is enquired into by it or where in its opinion, the reputation of such person is likely to be prejudicially affected.
- 20. Publication-** when the Commission passes order after inquiry under Section 17, the Court Master shall cause to.-
- 1) Prepare a list of such cases furnishing particulars such as case number, name of the complainant, name of the Government or authority concerned and the date of final order, with a further note that copy of the Inquiry report referred to under Section 18 of the Act are available for perusal by the Commission;
 - 2) Publish the list so prepared on the Notice Board of the Commission on the first working day of every month;
 - 3) Send to the Commission two sets of the documents referred to in Section 18 of the Act and the further order, if any, passed by the Commission in each case.
- 21. Mode of communication.**
- (1) unless otherwise ordered, all communications from the Commission shall be sent by ordinary post.
 - (2) Notwithstanding anything contained in Clause 1 of this Regulation, the notice of hearing to be sent to the parties, where the hearing is fixed outside the Head Quarters at Gangtok, shall be sent by speed post/messenger/ text message, sufficiently in advance to ensure that the Postal Acknowledgement/ Notice is received back duly signed before the Commission.
- 22. Review.**
- 1) No party shall have a right to seek review of the order or proceedings of the Commission;
 - 2) If any application seeking review or modification of order or proceedings passed by the Commission is received, the same shall be placed before the Chairperson, along with the case file and the same shall be disposed off by such order as may be deemed proper.
- 23. Consignment of Records.-** Records of all cases finally disposed off shall be consigned to the Record section after completing the entries in the record register.

24. Period of Retention of Records.-

- 1) Unless otherwise ordered by the Chairperson, the entire records of disposed off complaints shall be weeded after the expiry of a period of 2 (two) years from the date of final disposal.
- 2) The record register which contains detailed information regarding each complaint registered shall be retained permanently.

25. Weeding of Records.-

- 1) The record keeper shall identify the case, the records of which are ripe for weeding and ensure that appropriate entries made in the record register regarding the date of weeding. A separate register shall also be maintained containing the list of cases taken up for weeding.
- 2) Original documents shall be returned to the person who produced the same, on his application, at any time before weeding.
- 3) Weeding shall be carried out as per the direction of the Chairperson in the month of August every year.

26. Minutes of the Meeting-

- 1) Minutes of each meeting of the Commission shall be recorded during the meeting itself or immediately thereafter by the Secretary or by any other officer as directed by the Chairperson. Such minutes shall be submitted to the Chairperson for approval.
- 2) Unless specially authorized no action shall be taken by the Secretariat of the Commission on the minutes of the meetings until the same are confirmed by the Chairperson.

27. Record of Minutes.- A master copy of the minutes of every meeting and opinion of the Commission shall be maintained duly authenticated by the secretary and a copy of the minutes pertaining to each item shall be added to the relevant file for convenience, copies thereof with appropriate indexing shall be kept in guard files.

28. Report of Action taken.- Report of follow up action shall be submitted to the Commission by the Secretary at every subsequent meeting indicating therein the present stage of action on each time on which the Commission had taken a decision in any of its earlier meetings, excepting the items on which no further action is called for.

29. Transaction of business outside the Headquarters.-

- 1) The Commission may transact business at place outside its Headquarters as and when previously approved by the Chairperson provided that if parties are to be heard in connection with any enquiry under the Act.
- 2) The Commission may undertake visits for an on the spot study and report thereon shall be prepared.

30. Authentication of orders and decisions.- Orders and decisions of the Commission shall be authenticated by the Secretary or any officer authorized by the Chairperson.

31. **Copies.**- Unless any document is classified by the Commission as confidential, a copy of the same may be made available to the parties in the matter, on payment of copying charges fixed by the Commission from time to time. Copies shall be furnished as expeditiously as possible.
32. **Representative.**- Parties before the Commission shall appear either in person or through authorized representative, unless personal attendance is required by the Commission. Such a representative may be a member of the Bar or such other person authorized by the Commission to represent the parties.
33. **Annual Report.**- The Commission shall prepare an Annual Report for the period commencing from 1st April of the year to 31st March of succeeding year, signed by the Chairperson and the same shall be preserved as a permanent record. Authenticated copies shall be sent to the State Government by the end of September of every year.
34. **Special Reports.**- The Commission shall likewise prepare and forward Special Report on specific matters as provided in Section 28 of the Act.
35. **Printing of Reports.**- The Secretariat of the Commission shall arrange for the printing of the Annual and Special Reports within a month after its finalization.
36. **Reports on complaints and inquires.**- Report contemplated under Section 18 of the Act shall be sent to the Government or the concerned authority or the person, as the case may be, within a month or such further time as the Commission may allow, of completion of the proceedings before the Commission. On receipt of the comments of the Government or the concerned authority or the person, the Commission shall publish the report in the manner provided in Section 18 of the Act.
37. **Amendments and additions.**- It shall be competent for the Commission to add, delete and amend these Regulations from time to time and to make appropriate directions on any matter not covered by these Regulation.
38. **Relaxation of Regulation.**- Commission shall have full power to relax any provision of the Regulation as per requirement.

Lakchung Sherpa
Secretary (SSJS)
Sikkim State Human Rights Commission

